

ORDINANCE NO. 1789

AN ORDINANCE OF THE CITY OF BOTHELL, WASHINGTON, CONCERNING COMMUTE TRIP REDUCTION IMPLEMENTATION REGULATIONS; AMENDING CHAPTER 14.06 OF THE BOTHELL MUNICIPAL CODE; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, in 1997 the state legislature revised the state Commute Trip Reduction Law first enacted in 1992 and codified in RCW 70.94.521 - .551 to extend the effective date and to make other significant revisions; and

WHEREAS, the City first implemented the requirements of the state Commute Trip Reduction Law in 1994 and has gained useful implementation experiences and found ways to improve implementation efficiency; and

WHEREAS, the City has considered the current requirements of the state CTR Law and has proposed revisions to the implementing regulations found in Chapter 14.06 of the Bothell Municipal Code to make the City implementing regulations consistent with these current requirements; and

WHEREAS, the Planning Commission has conducted a public hearing, completed its review and adopted findings, conclusions and recommendation for amending Chapter 14.06 of the Bothell Municipal Code to implement the requirements of the state Commute Trip Reduction Law; and

WHEREAS, the City Council conducted a public hearing on and considered the proposed amendments to Chapter 14.06 of the Bothell Municipal Code and has determined that the proposed amendments are in the best interest of the public health, safety and welfare of the City,

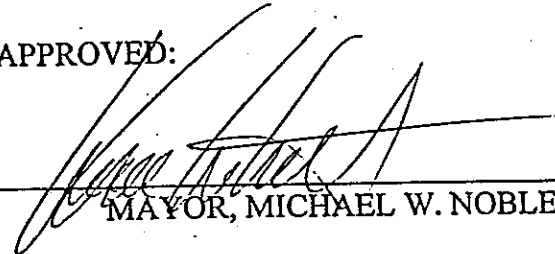
NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BOTHELL, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. Chapter 14.06 of the Bothell Municipal Code is amended to read as set forth in Attachment A to this ordinance, which by this reference is incorporated herein as if fully set forth.

Section 2. SEVERABILITY. If any section, sentence, clause or phrase of this ordinance should be held to be invalid by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 3. EFFECTIVE DATE. This ordinance, being an exercise of a power specifically delegated to the City legislative body, is not subject to referendum, and shall take effect five (5) days after passage and publication of an approved summary thereof consisting of the title.

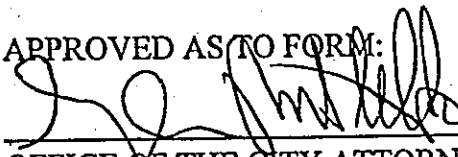
APPROVED:


MAYOR, MICHAEL W. NOBLET

ATTEST/AUTHENTICATED:


CITY CLERK, JOANNE TRUDEL

APPROVED AS TO FORM:


OFFICE OF THE CITY ATTORNEY

FILED WITH THE CITY CLERK: November 24, 1999
PASSED BY THE CITY COUNCIL: December 6, 1999
PUBLISHED: December 15, 1999
EFFECTIVE DATE: December 20, 1999
ORDINANCE NO.: 1789

Chapter 14.06

COMMUTE TRIP REDUCTION – ORDINANCE NO. 1789

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14.06.010 Definitions.

For the purpose of this chapter, the following definitions shall apply in the interpretation and enforcement of this chapter:

- A. Affected Employee. A full-time employee who is scheduled to begin his or her regular work day at a single worksite between 6:00 a.m. and 9:00 a.m. (inclusive) on two or more weekdays per week for at least 12 continuous months.
- B. Affected Employer. A public or private employer that employs 100 or more full-time employees at a single worksite within Bothell City Limits who are scheduled to begin their regular work day between 6:00 a.m. and 9:00 a.m. (inclusive) on two or more weekdays for at least 12 continuous months. The individual employees may vary during the year. A construction worksite, when the expected duration of the construction is less than two years, is excluded from this definition. An affected employer is the same as "major employer" referred to in RCW 70.94.521 through 70.94.551.
- C. Alternative Mode. Any type of commute transportation other than that in which the single-occupant motor vehicle is the dominant mode including telecommuting and compressed work weeks if they result in reducing the number of commute trips.
- D. Alternative Work Schedules. Programs such as compressed work weeks that eliminate peak period work trips for affected employees.
- E. Base Year. The period from January 1, 1992, through December 31, 1992, on which goals for the proportion of single-occupant vehicle (SOV) trips and average vehicle miles traveled (VMT) per employee shall be based.
- F. Carpool. A motor vehicle occupied by two (2) to six (6) people traveling together for commute trips that results in the reduction of a minimum of one motor vehicle commute trip.
- G. City. The City of Bothell.

- H. Commute Trips. Trips made from a worker's home to a worksite with a regularly scheduled arrival time of 6:00 a.m. to 9:00 a.m. (inclusive) on weekdays.
- I. CTR Administrative Procedures. The procedures adopted by the city which describe how to complete and submit CTR reports and forms and requirements for records described in the CTR ordinance.
- J. CTR Guidelines. The set of guidelines prepared by the CTR Task Force in accordance with RCW 70.94.527. The City will use these guidelines to interpret and administer the Bothell CTR Ordinance.
- K. CTR Plan. The City of Bothell's plan as set forth in this Section to regulate and administer the CTR programs of affected employers located within the Bothell City Limits.
- L. CTR Program. An affected employer's strategies to reduce affected employee's SOV use and VMT per employee to achieve trip reduction goals.
- M. CTR Zone. An area, such as a census tract or combination of census tracts within Bothell, characterized by similar employment density, population density, level of transit service, parking availability, access to high occupancy vehicle facilities, and other factors that are determined to affect the level of SOV commuting.
- N. Commuter Matching Service. A system that assists in matching commuters for the purpose of enabling them to commute together.
- O. Compressed Work Week. An employer approved work schedule that regularly allows a full-time employee to eliminate at least one work-day every one or two weeks by working longer hours during the remaining days, resulting in fewer commute trips by the employee. This definition is primarily intended to include weekly and bi-weekly arrangements, the most typical being four (4) ten (10) hour days or eighty (80) hours in nine (9) days, but may also include other arrangements. Compressed work weeks are understood to be an ongoing arrangement.
- P. Custom Bus/Buspool Service. A commuter bus service specifically arranged to transport employees to work.
- Q. Days. Calendar days, unless otherwise qualified by the text.
- R. Distribution. The transmittal directly to each employee of information on the availability and benefits of ridesharing, public transit and other alternatives to driving. Transmittals may occur by direct mailing this information to each employee; the posting of this information on bulletin boards and kiosks; and/or distribution of this information at transportation fairs and via electronic mail.
- S. Dominant Mode. The mode of travel used for more than 50 percent of the commute trip distance each way.
- T. Employee. Anyone who receives financial or other remuneration for work provided to an employer, including owner(s) or partner(s).
- U. Employee Transportation Coordinator (ETC). An ETC is an individual designated by the employer to implement and manage commute trip reduction programs for all employees at each worksite.
- V. Employer. A sole proprietorship, partnership, corporation, unincorporated association, cooperative, joint venture, agency, department, district or other individual or entity, whether public, nonprofit, or private that employs people.

W. Exemption. A waiver from CTR program requirements granted to an employer by the City and based on unique conditions that apply to the employer or employment site.

X. Fleetrider. A program offered by employers which makes company-owned vehicles available for carpools.

Y. Flexible Work Schedules (Flextime). An employer policy which allows employees to vary the times they arrive and depart work daily to facilitate use of HOV.

Z. Full-Time Employee. A person other than an independent contractor scheduled to be employed on a continuous basis for fifty-two (52) weeks per year for an average of at least thirty-five (35) hours per week.

AA. Good Faith Effort. An employer that has met the minimum requirements identified in RCW 70.94.531 and this section, and is working collaboratively with the City of Bothell to continue its existing CTR program or is developing and implementing program modifications likely to result in improvements to its CTR program over an agreed upon length of time.

BB. High Occupancy Vehicle (HOV). Any motor vehicle occupied by two (2) or more people for commuting purposes. May refer to an employee who commutes by carpool, vanpool, bus, or non-motorized alternatives.

CC. HOV Subsidies. A payment in addition to the normal salary given to each employee who commutes by carpool, vanpool, bus, or non motorized alternatives.

DD. Implementation. The active pursuit by an employer of the CTR goals of RCW 70.94.521 through 70.94.551 and this chapter as evidenced by the appointment of a transportation coordinator, distribution of information to employees regarding alternatives to SOV commuting, and commencement of other measures according to this ordinance and their CTR program and schedule.

EE. Mode. The type of transportation used by employees, such as single-occupant motor vehicle, HOV (carpool, vanpool and/or transit), ferry, bicycle, walking, compressed work schedule and telecommuting.

FF. Notice. Written communication delivered via the United States Postal Service with receipt deemed accepted three days following the day on which the notice was deposited with the Postal Service unless the third day falls on a weekend or legal holiday.

GG. Peak Period. The hours from 6:00 a.m. to 9:00 a.m. (inclusive), Monday through Friday, except legal holidays.

HH. Peak Period Trip. Any employee trip that delivers the employee to his or her worksite on a regular workday between 6:00 a.m. and 9:00 a.m. (inclusive), Monday through Friday, except legal holidays.

II. Preferred or Preferential Parking. Parking spaces or area(s) provided by the employer or developer in a location preferred by the majority of employees and set aside for employees who commute by carpool, vanpool or bicycle.

JJ. Proportion of Single-Occupant Vehicle (SOV) Trips. The number of commute trips over a set period made by Affected Employees in SOVs divided by the number of affected employees working during that period.

KK. Ride Match Service. A service provided by METRO, Community Transit, the employer, a transportation management association or other authorized group which matches employees who want to form or join a carpool or vanpool.

LL. Single Occupant Vehicle (SOV). A motor vehicle occupied by one employee for commute trips, including a motorcycle.

MM. Single-Occupant Vehicle (SOV) Trips. A commute trips made by affected employees in single-occupant vehicles.

NN. Single Worksite. A building or group of buildings on physically contiguous parcels of land or on parcels separated solely by private or public roadways or right-of-way, occupied by an Affected Employer.

OO. Survey. A survey using the CTR survey forms provided by the State and conducted in accordance with the procedures described in the CTR Task Force Guidelines.

PP. Telecommuting. The use of telephones, computers, facsimile (FAX), or other means to permit an employee to work at home, eliminating a commute trip, or to work at a work place closer to home, reducing the distance traveled in a commute trip by at least half.

QQ. Transit. A multiple-occupant vehicle operated on a for-hire, shared-ride basis, including bus, ferry, rail, shared-ride taxi, shuttle bus, or vanpool. A transit trip counts as zero (0) vehicle trips.

RR. Transit Fair. A promotion held in a prominent, convenient, central location within the worksite or within a 1/4th mile walk distance in a business park, downtown, mall or other employment center.

SS. Transportation Demand Management (TDM). A broad range of strategies that are primarily intended to reduce and reshape demand on the transportation system.

TT. Transportation Information Center. An ongoing, on-site display of information explaining alternative transportation modes available for the worksite. A transportation information center must be available in an area of high employee traffic.

UU. Transportation Management Association (TMA). A group of employers or an association representing a group of employers in a defined geographic area brought together for TDM purposes. A TMA may represent employers within specific city limits and may include employers located outside city limits.

VV. Vanpool. A motor vehicle occupied by seven (7) to fifteen (15) employees traveling together for their commute trip that results in the reduction of a minimum of one motor vehicle trip. A vanpool trip counts as zero (0) vehicle trips.

WW. Vehicle Miles Traveled (VMT) Per Employee. The sum of the individual vehicle commute trip lengths in miles made by affected employees over a set period divided by the number of affected employees during that period.

XX. Week. A seven day calendar period, starting on Monday and continuing through Sunday.

YY. Weekday. Any day of the week except Saturday and Sunday.

ZZ. Work Trip. Any trip made at any time by an employee from his or her home to a worksite for the purpose of beginning his or her regular workday.

AAA. Worksite. A building or group of buildings on physically contiguous parcels of land or on parcels separated solely by private or public roadways or rights-of-way occupied by one or more affected employers.

BBB. Writing, Written, or In Writing. Original signed and dated documents, Facsimile (FAX) transmissions are a temporary notice of action that must be followed by the original signed and dated documents delivered via mail or other personal delivery means.

14.06.020 Commute Trip Reduction Goals.

Employers affected by this ordinance are required to make a good faith effort as defined in RCW 70.94.534(2) and this chapter to develop and implement a CTR program that will encourage its employees to reduce VMT per employee and SOV commute trips. These reductions shall be from the base year values defined in this chapter and shall apply to: 1) vehicle miles traveled per employee, and 2) the proportion of single occupant vehicle trips. The required reduction proportions are:

- A. Fifteen (15) percent by January 1, 1995;
- B. Twenty (20) percent by January 1, 1997;
- C. Twenty-five (25) percent by January 1, 1999; and
- D. Thirty-five (35) percent by January 1, 2005.

14.06.030 Designation of CTR Zone and Base Year Values.

All Bothell Affected Employers are designated to be in the East King County CTR Zone for the purposes of computing trip reduction goals. The base year proportion of SOV trips and VMT for all Bothell affected employers is eighty-five (85) percent and nine and three-tenths (9.3) miles, consistent with the East King County CTR Zone base year proportion of SOV trips and VMT. Therefore affected employers in the City of Bothell shall establish a program designed to result in the proportions of SOV trips of not more than seventy-two (72) percent in 1995, sixty-eight (68) percent in 1997, sixty-four (64) percent in 1999 and fifty-five (55) percent in 2005; and VMT per employee of not more than seven and nine-tenth (7.9) miles in 1995, seven and four-tenths (7.4) miles in 1997, seven (7.0) miles in 1999 and six (6.0) miles in 2005 as related to the worksite base value of eighty-five (85) percent.

A site-based value for the proportion of SOV trips may be determined by survey. If the employer chooses to use this option, reductions for subsequent measurement years shall be established against this site-based value as described in 14.06.020.

14.06.040 City of Bothell CTR Plan and Administrative Guidelines.

A copy of the Bothell CTR Plan and Administrative Guidelines is on file with the City Clerk. The Bothell CTR Plan may be amended by the Bothell City Council in accordance with RCW 70.94.521 at any time with public notice.

14.06.050 Responsible Agency.

The City Executive Department shall be responsible for the administration and for the preparation of procedures to implement this chapter. The City Council shall have the authority to issue such rules and administrative guidelines as are necessary to implement this chapter. Any administrative guidelines which are issued for this chapter shall be reviewed by the City Executive Department annually, or as needed to insure their applicability.

14.06.060 Applicability.

The provisions of this chapter shall apply to any affected employer at each worksite within the corporate limits of the city. Employees will only be counted at their primary worksite. The following classifications of employees are excluded from the counts of employees: (1) seasonal agricultural employees, including seasonal employees of processors of agricultural products, and (2) employees of construction worksites when the expected duration of the construction is less than two years.

A. Notification of Applicability.

1. In addition to Bothell's established public notification for adoption of an ordinance, a summary of the ordinance that establishes this chapter, a notice of availability of the full text of the same, a notice of the requirements and criteria for affected employers to comply with the same, and subsequent revisions shall be published at least once in the Northshore Citizen, a newspaper of general public circulation, within thirty (30) days after passage or revision of the same.

2. Known affected employers located in Bothell will receive formal written notification by certified mail that they are subject to this chapter within thirty (30) days after adoption.

3. An affected employer that for whatever reason, does not receive notice within thirty (30) days of adoption of this chapter must identify itself to the city within one hundred and eighty (180) days of the adoption of this chapter. Once they identify themselves, such employers will be granted one hundred and eighty (180) days within which to develop and submit a CTR program.

B. New Affected Employers.

1. Employers that meet the definition of "affected employer" in this chapter must identify themselves to the city within one hundred and eighty (180) days of either moving into the boundaries of Bothell or growing in employment at a worksite to one hundred (100) or more affected employees as specified under Section 14.06.010(B) of this chapter. Once they identify themselves, such employers shall be granted one hundred and eighty (180) days to develop and submit a CTR program. An employer that does not identify itself within one hundred and eighty (180) days is in violation and subject to penalties described in Section 14.06.120 (Enforcement).

2. Newly affected employers shall have two years to meet the first CTR goal of a fifteen (15) percent reduction from the base year values identified in Section 14.06.030; four (4) years to meet the second goal of a twenty (20) percent reduction; six (6) years to meet the third goal of a twenty-five (25) percent reduction; and twelve (12) years to meet the goal of a thirty-five (35) percent reduction from the time they begin their program.

C. Change in Status as an Affected Employer. Any of the following changes in an employer's status will change the employer's CTR program requirements:

1. If an employer initially designated as an affected employer no longer employs a sufficient number of employees to qualify as an affected employer as specified under Section 14.06.010(B) of this chapter and can provide documentation that it will not employ a sufficient number of full-time employees to qualify as an affected employer as specified under Section 14.06.010(B) of this chapter for the next twelve (12) months, that employer is no longer an affected employer. It is the responsibility of the employer to provide documentation to the City that it is no longer an affected employer.

2. If the same employer returns to the level of employment of a sufficient number of full-time employees to qualify as an affected employer as specified under Section 14.06.010(B) of this chapter within the same twelve (12) months, that employer is required to notify the City and will be considered an affected employer for the entire twelve (12) months, and will be subject to the same program requirements as other affected employers.

3. If the same employer returns to the level of employment of a sufficient number of full time employees to qualify as an affected employer as specified under Section 14.06.010(B) of this ordinance twelve (12) or more months after its change in status to an unaffected employer, that employer shall be treated as a newly affected employer and will be subject to the same program requirements as other newly affected employers.

14.06.070 Requirements for Employers.

An affected employer is required to make a good faith effort, as defined in RCW 70.94.534(2) and this chapter and to develop and implement a CTR program that will encourage its employees to reduce SOV commute trips and VMT per employee at each affected worksite. The employer shall submit a description of its program to the City and provide an annual progress report to the city on employee commuting and progress toward meeting the goals. The employer CTR program must include the mandatory elements described below.

A. Description of Employer's CTR Program. The CTR program description presents the strategies to be undertaken by an employer to achieve the commute trip reduction goals for each goal year. Employers are encouraged to consider innovative strategies and combine program elements in a manner that will best suit their location, site characteristics, business type, and employees' commuting needs. Employers are further encouraged to cooperate with each other and to form or use transportation management associations in developing and implementing CTR programs. Each affected employer is required to submit a description of its CTR program to the City on

the official form available from the City Executive Department and shown in the CTR administration procedures. At a minimum, the employer's description must include:

1. General description of each worksite location in the city, transportation characteristics, surrounding services, and unique conditions experienced by the employer or its employees.
2. Number of employees affected by the CTR program and total number of employees per worksite;
3. Documentation of compliance with the mandatory CTR program elements, as described in Subsection B of this section;
4. Description of the additional elements included in the CTR program as described in Subsection B of this section; and
5. Schedule of implementation, assignment of responsibilities, and commitment to provide appropriate resources to implement the CTR program.

B. Mandatory Program Elements. Each affected employer's CTR program for each affected worksite shall include the following mandatory elements:

1. Employee Transportation Coordinator. The employer shall designate at least one Employee Transportation Coordinator (ETC) to administer its CTR plan. The ETC's name, location, and telephone number must be displayed prominently at each affected worksite. The ETC shall oversee all elements of the employer's CTR program and act as liaison between the employer and the City. An affected employer with multiple affected worksites in Bothell and/or the region may have one transportation coordinator for more than one affected worksite, provided the workload permits them to perform required CTR implementation tasks. The ETC is not required to be an employee of the affected employer.
2. Information Distribution. Information about the employer CTR program shall be distributed to all employees at least once a year and program information shall be posted permanently and regularly updated, in a conspicuous place that is easily accessible to all employees at bulletin boards, via e-mail and or kiosks. An information center is to be maintained in each worksite building used by fifty (50) or more affected employees. Program information shall consist of, at a minimum, a summary of the employer's program, including ETC name and phone number. Employers must also provide a summary of their program to all new employees at the time of hire. Each employer's program description and annual report must describe what information is to be distributed by the employer and the method of distribution.
3. Annual Progress Report and Plan. The CTR program must include an annual review of employee commuting, progress, and good faith efforts toward meeting the SOV reduction and VMT goals. Affected employers shall file an annual progress report to the City on or before October 1st of each year unless otherwise directed. The report shall describe each of the CTR measures that were in effect for the previous year, the results of any commuter surveys undertaken during the year, the number of employees participating in CTR programs and a plan for the upcoming year. Within the report, the employer should evaluate the effectiveness of the CTR program and, if necessary, propose

modifications to achieve the CTR goals. Survey information or approved alternative information must be provided in the reports submitted in the second, fourth, sixth, eighth, tenth and twelfth years after implementation begins. Data from the State of Washington Commute Trip Reduction Employee Questionnaire with a minimum seventy (70) percent response rate or approved alternative information shall be required. The format of the reports shall be provided by the City.

4. Annual Worksite Promotion of Employer CTR Program. Affected employers will hold at least one (1) annual "transportation fair" or equivalent promotion which is available to all employees at each affected worksite.

5. Ridematch Program. Affected employers shall operate a ridematch program. A ridematch program shall include the following elements: promotion, distribution of either ridematch applications or coordination of zip code data, use of an area-wide or internal ridematch service, and contacting/coordinating potential HOV commute candidates. Ridematching can be a unique ridematch program for each affected worksite. Sites close enough for workers to use HOV and/or the affected employer can utilize the regional ridematch systems provided by Community Transit, METRO and/or the city.

6. Record Keeping. Affected employers shall maintain all records required to document the performance of their accepted or approved CTR program for the duration of the CTR Ordinance. Requirements are described in the CTR Administrative Procedures.

7. Transportation Demand Management Elements. In addition to the specific program elements described above, the employer's CTR program shall include a set of transportation demand management elements designed to achieve the trip reduction goals established by this chapter.

a. An employer's CTR program shall include at least one (1) element selected from the list below and subject to the guidelines for the selected element, or the combined portions of selected elements, as provided in the administrative guidelines:

1. Preferential parking for carpools, and vanpools which is signed, monitored and enforced;
2. Financial incentives, including but not limited to subsidized bus passes, vanpool subsidies or a transportation allowance for non-SOV commuting;
3. Establishment of a program of alternate work schedules which eliminates work trips for affected employees;
4. Establishment of a program of telecommuting which permits affected employees to work at home or at an alternative worksite closer to their home;
5. Provision of vans for vanpools;
6. Participation in a Transportation Management Association (TMA); and
7. Imposition of parking charges for SOV commuters.

b. Each affected employer shall include one or more additional CTR program element(s) designed to help employers meet CTR goals. Employers are encouraged to develop and implement innovative strategies, which are tailored to the specific situation at their worksite. Employers may also select elements from a list of recognized transportation demand management activities which include, but are not limited to the following:

1. Any element listed in Section 14.06.070(B)(7)(a) that has not been selected as required under Section 14.06.070(B)(7)(b);
2. Permitting the use of employers' vehicles for carpooling or vanpooling;
3. Permitting flexible work schedules to facilitate employees' use of transit, carpools, or vanpools;
4. Cooperation with transportation providers to provide additional regular or express service to the work site;
5. Construction of special loading and unloading facilities for transit, carpool and vanpool users;
6. Provision of bicycle parking facilities, lockers, changing area and showers for employees who bicycle or walk to work;
7. Provision of a program of parking incentives such as a rebate for employees who do not use the parking facilities;
8. Provision of a guaranteed ride home or emergency taxi service program;
9. Special, on-site promotions of alternatives to SOV commuting, in addition to the required promotion program described in 14.06.070(B)(4), above; and/or
10. Implementation of other measures designed to facilitate the use of HOV, including but not limited to on-site day care facilities, concierge service or provision of company-provided vehicles for personnel use during break periods.

C. Consideration of Other Program Elements. Consideration will be given by the City when reviewing CTR programs which include TDM elements that are designed to promote the use of HOV in ways other than those specified in 14.06.070(B)(7)(a) and (b) above.

14.06.080 Transportation Management Associations.

In lieu of submitting an initial CTR program and annual reports as described in Section 14.06.070(B)(3), an affected employer may join a Transportation Management Association (TMA) that submits a single program or annual report on behalf of its members. In addition to describing program measures, which are common to its members, the CTR program and annual report shall describe specific program measures which are unique to individual member's worksites. The TMA, as an agent for its members, shall provide performance data for each employer, as well as data aggregated from all TMA members.

Each employer is responsible for meeting the requirements of this chapter regardless of the employer's participation in a TMA. Program modifications shall be specific to an employer. If an employer elects to satisfy its CTR program requirements through a TMA program and/or annual report, the employer shall notify the City in writing, designating the TMA as its agent.

14.06.090 Program Approval and Modification Criteria.

The following criteria shall be used to guide the review and development of CTR programs and annual CTR progress reports submitted to the City.

A. Initial Program Submittal. Beginning with the initial CTR program submittal, and for all CTR annual progress report submittals prior to 1995, or prior to the employer's first goal year, a program or progress report shall be approved if all required elements, as described in Section 14.6.070 of this ordinance, are included in the submittal.

B. Criteria for Program Modifications. The following criteria shall be applied in determining requirements for employer CTR program modifications.

1. If an employer makes a good faith effort, as defined in RCW 70.94.534(2) and this chapter, and meets either or both goals, the employer has satisfied the objectives of the CTR plan and will not be required to modify its CTR program.

2. If an employer makes a good faith effort, as defined in RCW 70.94.543(2) and this chapter, but has not met or is not likely to meet the applicable SOV or VMT goal, the City shall work collaboratively with the employer to make modifications to its CTR program. After agreeing on modifications, the employer shall submit a revised CTR program description to the City for approval within 30 days of reaching agreement.

3. If an employer fails to make a good faith effort as defined in RCW 70.94.534(2) and this chapter, and fails to meet the applicable SOV or VMT reduction goal, the City shall work collaboratively with the employer to identify modifications to the CTR program and shall direct the employer to revise its program within 30 days to incorporate the modifications. In response to the recommended modifications, the employer shall submit a revised CTR program description, including the requested modifications or equivalent measures, within 30 days of receiving written notice to revise its program. The City shall review the revisions and notify the employer of acceptance or rejection of the revised program. If a revised program is not accepted, the City will inform the employer in writing within 30 days and, if necessary, require the employer to attend a conference with program review staff for the purpose of reaching a consensus on the required program. A final decision on the required program will be issued in writing by the City within 10 working days of the conference.

14.06.100 Credits, Goal Modifications, Adjustments, Program Amendments, and Exemptions.

A. Program Exemption Credit for Successful Transportation Demand Management Efforts. Affected employers that meet the VMT per employee and/or proportion of SOV trips which at least achieve goals for one or more future goal years may apply to be exempted from CTR program requirements until the proportion of SOV trips and or VMT are not met in a future goal year. Application shall include results from a survey of employees or equivalent information that establishes the applicant's VMT per employee and proportion of SOV trips and a commitment in writing to continue their current level of effort. The survey or equivalent information shall conform to all applicable standards established in the CTR administrative guidelines. Those employers whose application meet requirements shall be exempt from the requirements of this chapter except for the requirements to report performance in annual reports for their goal years as specified in Section 14.06.070(B)(3) of this chapter. If any of these reports indicate the employer does not satisfy the next applicable goal, the employer shall immediately become subject to all requirements of this chapter.

Employers may apply for program exemption credit within ninety (90) days of receipt of notification of affected status, or in any annual report submitted after January 1, 1994. For requests submitted within ninety (90) days of receipt of notification of affected status, the City shall respond to the request within sixty (60) days of the receipt of the request. For requests submitted as part of an annual report, the City shall respond within the time frames specified in Section 14.06.110(D).

Employers with formal Transportation Demand Management programs implemented prior to the first base year may apply for program exemption credit as provided for above. A formal Transportation Demand Management program is one which has been in effect for at least one year prior to the adoption of this ordinance, or one year prior to the employer becoming an affected employer under this ordinance, and can document the implementation of program elements designed to reduce the number of employee SOV commute trips. An employer shall be considered to have met the first CTR goals if their VMT per employee and proportion of SOV trips are equivalent to a twelve (12) percent or greater reduction from the base year zone values. This three (3) percentage point credit applies only to the fifteen (15) percent reduction goal, i.e. the goal for 1995.

B. Credit for Telecommuting, Alternative Work Schedules, Work-at-Home, Walking, and Bicycling. For purposes of counting vehicle trips, telecommuting, alternative work schedules, bicycling, and walking shall count as one and two tenths (1.2) vehicle trips eliminated. This credit will automatically apply when calculating the proportion of SOV trips and average VMT for affected employers.

Employers that have modified their employees' work schedules so that some or all employees are not scheduled to arrive at work between 6:00 a.m. and 9:00 a.m. shall be provided credit when calculating the SOV use rate and VMT for that worksite. This credit shall be awarded if implementation of the schedule change was an identified element in that worksite's approved CTR program or if the schedule change occurred because of impacts associated with RCW Chapter 36.70A (the state Growth Management Act).

C. Modification of CTR Program Goals. An employer may request a modification of CTR program goals under the following conditions:

1. An Affected Employer may request that the City modify its CTR program goals. Such requests shall be filed in writing at least 60 days prior to the date the worksite is required to submit its program description and annual report. The goal modification request must clearly explain why the worksite is unable to achieve the applicable goal. The worksite must also demonstrate that it has implemented all of the elements contained in its approved CTR program. The City will review and grant or deny requests for goal modifications in accordance with procedures and criteria identified in the CTR Task Force Guidelines. An employer may not request a modification of the applicable goals until one year after the City's approval of its initial program description or annual report. The City shall respond to requests for goal modifications within thirty (30) days of the receipt of the request.

D. CTR Program Amendments. At least ninety (90) days after the approval of a program description or an annual report, any affected employer may, as specified below, amend any CTR program elements listed in Section 14.06.070(B)(7).

1. An employer may amend their CTR program by replacing a program element selected as required under Section 14.06.070(B)(7)(a) with any other element required under Section 14.06.070(B)(7)(a) without prior City approval. The employer must however, notify the City in writing prior to the implementation of such a change.
2. An employer may request permission from the City to amend any program element included as required under Section 14.06.070(B)(7)(b). Such request may be granted if one of the following conditions exist:
 - a. The employer can demonstrate it would be unable to comply with the CTR program elements for reasons beyond the control of the employer;
 - b. The employer can demonstrate that compliance with the program elements would constitute an undue hardship; or
 - c. The employer can demonstrate a significant change in local service or the transportation infrastructure that impacts the effectiveness of their adopted CTR program, or will increase the effectiveness of other program elements.

The City shall respond to such a request within thirty (30) days of the receipt of the request.

E. CTR Exemptions. An affected employer may request an exemption from all CTR program requirements or penalties for a particular worksite at any time. An exemption may be granted if and only if the affected employer demonstrates that it faces extraordinary circumstance, such as bankruptcy, and is unable to implement any measures that could reduce the proportion of SOV trips and VMT per employee. The City shall respond to a request for an exemption within thirty (30) days of the receipt of the request. The notice should clearly explain the conditions for which the affected employer is seeking an exemption from the requirements of the CTR program. The City shall review annually all employers receiving exemptions, and shall determine whether the exemption will be in effect during the following program year.

Specific employees or groups of employees who are required to drive alone to work as a condition of employment may be exempted from a worksite's CTR program. Exemptions may also be granted for employees who work variable shifts throughout the year and who do not rotate as a group to identical shifts. The City will use the criteria identified in the CTR Task Force Guidelines to assess the validity of employee exemption requests, and shall determine whether the exemption will be in effect during the following program year.

14.06.110 Schedule for CTR Program and Annual Reports Submittal, Review, and Implementation.

A. CTR Program Submittal and Implementation. Not more than one hundred and eighty (180) days after the adoption of this ordinance, or within one hundred and eighty (180) days after an employer qualifies under the provisions of this ordinance, the employer shall develop a CTR program and shall submit to the City for review a description of that program as provided in Section 14.06.070. The employer shall implement a CTR program not more than one hundred and eighty (180) days after the initial program submittal to the City. Implementation of the approved program modifications will occur within thirty (30) days of the final administrative decision on such modifications, or within one hundred and eighty (180) days of the initial program submittal, whichever is greater.

B. Employer Annual Reporting Date. Upon review of an employer's initial CTR program, the City shall establish the employer's annual reporting date, which shall not be less than twelve (12) months from the day the program is submitted. Each year on the employer's reporting date, the employer shall submit the annual CTR report to the City. October 1st of each year is the current submittal date to the City for most employers.

C. Extensions. An employer may request additional time to complete any action required under this Ordinance, provided that no extension shall apply to the requirements of Section 14.06.130. Such requests shall be made in writing no less than seven (7) days before the due date for which the extension is being requested. Extensions not to exceed ninety (90) days shall be considered for reasonable causes. Employers will be limited to a total of ninety (90) extension days per year. Extensions shall not exempt an employer from any responsibility in meeting program goals. Extensions granted due to delays or difficulties with any program element(s) shall not

be cause for discontinuing or failing to implement other program elements. An employer's annual reporting date shall not be adjusted permanently as a result of these extensions. An employer's annual reporting date may be extended at the discretion of the City designee.

D. Schedule for Review of Programs, Annual Reports, and Required Program Modifications. The City shall complete review of the employer's program or annual report within ninety (90) days of receipt. The City shall, as necessary during this review period to facilitate approval, discuss with the employer any issues of concern relating to the submitted program or report. For any submittal except the initial CTR program submittal, the City may, upon notification of the employer, extend this review period for up to ninety (90) days. The City shall provide the employer with written notification of the decision of approval or rejection of the employer's CTR program or annual report, including the cause for rejection.

If the decision is to reject an initial CTR program or annual report submittal the employer shall resubmit the revised CTR program or annual report within ten (10) City business days of receipt of this decision notice.

Within thirty (30) days of receipt of the revised program, the City shall review the revision and notify the employer in writing of the approval or rejection of the revised program or report. If the City's decision is to reject the revised program or report, the employer may appeal this decision as provided in Section 14.06.130.

14.06.120 Enforcement.

A. Compliance. For purposes of this section, compliance shall mean submitting required reports and documentation at prescribed times and fully implementing all provisions in an accepted CTR program.

B. Violations. The following actions shall constitute a violation of this chapter.

1. Failure to implement an approved CTR program unless the program elements that are carried out can be shown through data collected as specified in Section 14.06.070(B)(3), to meet or exceed the proportion of SOV trips/or and VMT goals as specified in this chapter. Failure to implement a CTR program includes but is not limited to:

- a. Failure of existing or new affected employers not notified to identify themselves to the city within the timeframes indicated in Section 14.06.060;
- b. Failure of employers to submit a complete CTR program within the deadlines specified in Section 14.06.110;
- c. Failure of affected employers to submit required documentation for annual reports;
- d. Failure to make a good faith effort, as defined in RCW 70.94.534 and this chapter; or
- e. Submittal of fraudulent data.

2. Failure of affected employers to modify a CTR program found to be unacceptable by the city under Section 14.06.090.

C. **Civil Penalties.** Each City business day during which an employer fails to implement a commute trip reduction program, or modify a commute trip reduction program that does not meet the goals shall constitute a separate violation of this chapter. No affected employer with an approved CTR program may be held liable for failure to reach the applicable SOV or VMT goals. This chapter shall be enforced by the Code Compliance Officer as provided in the Bothell Municipal Code, provided that:

1. Any violation of the provisions of this chapter shall be considered a Class I civil infraction pursuant to RCW 7.80.120, and shall subject the violator to a cumulative penalty in an amount not to exceed two hundred and fifty dollars (\$250.00) per day for each violation from the date set for compliance until compliance is achieved; and

2. An affected employer shall not be liable for civil penalties if failure to implement an element of a CTR program was the result of an inability to reach agreement with a certified collective bargaining agent under applicable laws where the issue was raised by the employer and pursued in good faith. Affected employers shall be presumed to act in good faith compliance if they:

- a. Propose to a recognized union any provision of the employer's CTR program that is subject to bargaining as defined by the National Labor Relations Act; and

- b. Advise the union of the existence of the statute and the mandates of the CTR program approved by the city of Bothell and advise the union that the proposal being made is necessary for compliance with state law (RCW 70.94.531). (Ord. 1631 § 1, 1996; Ord. 1507 § 1, 1993).

14.06.130 Appeals of Administrative Decisions.

A. **Reconsideration of Decisions - Conference.** Any affected employer wishing to appeal a decision regarding program approval, program exemption credit, goal modifications, adjustments, program amendments, or exemptions must request a conference with the Assistant City Manager, or his or her designee to request a reconsideration of the decision. Such a conference must be requested within ten (10) City business days of the decision, and shall be scheduled within thirty (30) days of the decision. When requesting a conference, an employer may indicate an intention to seek a recommendation from the Peer Review Board, and request that the conference be scheduled or continued after such a recommendation has been issued. The City of Bothell City Manager or designee shall issue a decision on the reconsideration request within ten (10) City business days of the completion of the conference.

B. **Review of Decisions - Peer Review Board.** After having initiated a conference as described in Section 14.06.130 of this ordinance, an employer may seek a review of administrative decisions on program approval, program exemption credit, goal modifications, adjustments, program amendments, or exemptions from the Peer Review Board. This Board shall be created through interlocal agreement with other jurisdictions. This Board shall include private sector members appointed by the City and shall provide equitable representation of affected employers. The procedures and rules for this Board shall be defined in the CTR Administrative Guidelines. The Peer Review Board shall have advisory power, and evidence of their findings may be

presented in decision reconsideration conferences as described, above, or in appeals before the Hearing Examiner as provided in Subsection C, below.

The provisions of this subsection, and of subsection A above as it relates to the Peer Review Board, shall take effect only after the Peer Review Board has been created and established through interlocal agreement with other jurisdictions.

C. Appeal of Administrative Decisions. Any person adversely affected by an administrative decision under this ordinance may appeal that decision to the Hearing Examiner within fourteen (14) days of the decision on the reconsideration request. The Hearing Examiner shall render a final decision in all appeals filed under subsections (B) and (C) of this Section. Appellants shall be notified at least ten (10) days in advance of the date, time, and place at which the Hearing Examiner will consider the appeal. Administrative decisions shall be upheld if it is determined that they were consistent with this chapter, the CTR law (RCW 70.94.521-551) and the CTR Task Force Guidelines. Appeals may be granted if the employer can show the administrative decision is not consistent with this chapter.

D. Appeals of Hearing Examiner Decisions. All actions seeking judicial review of any final decision of the Hearing Examiner under this ordinance must be filed within fourteen (14) days from the date the decision is rendered.

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SUMMARY OF ORDINANCE NO. 1789

City of Bothell, Washington

On the 6th day of December, 1999, the City Council of the City of Bothell passed Ordinance No. 1789. A summary of the content of said Ordinance, consisting of the title, provides as follows:

AN ORDINANCE OF THE CITY OF BOTHELL, WASHINGTON, CONCERNING COMMUTE TRIP REDUCTION IMPLEMENTATION REGULATIONS; AMENDING CHAPTER 14.06 OF THE BOTHELL MUNICIPAL CODE; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

The full text of this Ordinance will be mailed upon request.


CITY CLERK, JOANNE TRUDEL

FILED WITH THE CITY CLERK: November 24, 1999
PASSED BY THE CITY COUNCIL: December 6, 1999
PUBLISHED: December 15, 1999
EFFECTIVE DATE: December 20, 1999
ORDINANCE NO.: 1789